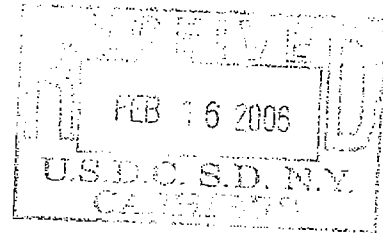


IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

IN RE: METHYL-TERTIARY BUTYL
ETHER ("MTBE") PRODUCTS
LIABILITY LITIGATION

MDL 1358
Master File C.A. No. 1:00-1898 (SAS)
M21 - 88



This Documents Relates To:

Basso, et al. v. Sunoco, Inc., et al., No. 03 Civ. 9050;
Tonneson, et al. v. Exxon Mobil Corp., et al., No. 03 Civ. 8248

**DEFENDANTS SUNOCO, INC. AND SUNOCO, INC. (R&M)'S
THIRD-PARTY COMPLAINT AGAINST
THE TOWN OF HIGHLANDS, NEW YORK**

Now comes Defendants Sunoco, Inc., and Sunoco, Inc. (R&M) (hereinafter "Sunoco"), by and through their attorneys, pursuant to Rule 14(a) of the Federal Rules of Civil Procedure, and for their Third Party Complaint Against the Town of Highlands, New York, state as follows:

1. On or about October 17, 2003, Dave Tonneson, Hudson Highlands Realty Restorations, LTD, Donna Boyce, Anna T. Burley, Robert Gee, Edwina Gee, Denise Gibney, Pat Hannigan, Charles Hannigan, Ian Hay, June Hay, William J. Hubeny, Anna L. Hubeny, Theresa Stanley, John Zervas and Joanne Zervas ("Tonneson, et al.") filed suit against Sunoco and other purported manufactures, designers, refiners, formulators, distributors, suppliers, sellers, and marketers of the gasoline additive methyl tertiary butyl ether ("MTBE") and/or tert butyl alcohol ("TBA") and/or gasoline products containing MTBE and/or TBA for alleged damages resulting from environmental harm or threatened environmental harm to their groundwater or water systems from MTBE, TBA, and/or gasoline containing MTBE and/or TBA. Exhibit A.

2. On or about November 17, 2003 a nearly identical complaint was filed by Robert Basso, M and R Market, Keith Bogardus, Sandra Bogardus, Ronald Buchholz, Joan Buchholz, Eric Buchholz, Alexander Buchholz, Dylan Buchholz, Stacy Camacho, Elizabeth Guadalupe, Louis Guadalupe, Chris DeSpirito, Tracie DeSpirito, William DeSpirito, Denise Linderman, James Linderman, John Quattrocchi, Ann Quattrocchi, John T. Quattrocchi, Damon Quattrocchi, Elaina Quattrocchi, Carin Savage, Cheryl Shrieve, Michael Shrieve, Richard Shrieve and Derrike Shrieve ("Basso, et al.") (Tonneson, et al. and Basso, et al. are hereinafter referred to collectively as, "Plaintiffs"). Exhibit B.

3. Plaintiffs allege that Sunoco and other defendants named in their complaints (hereinafter, "Defendants") caused harm or threatened harm to their groundwater or water systems by manufacturing, designing, refining, releasing, formulating, distributing, supplying, selling and/or marketing MTBE, TBA, and/or gasoline containing MTBE and/or TBA, and that Defendants are liable to Plaintiffs for the damages allegedly resulting therefrom.

4. Specifically, Plaintiffs assert claims against Sunoco and various other defendants for strict liability – design defect and/or defective product, failure to warn, negligence, public nuisance, private nuisance, trespass, declaratory relief, intentional interference with the right to appropriate, unfair competition pursuant to New York General Business Law § 349, emotional distress, and Article 12 of the New York Navigation Law.

5. Sunoco, Inc. and Sunoco, Inc. (R&M) are Pennsylvania corporations with their principal place of business at 1735 Market Street, Philadelphia, PA 19103.

6. Jurisdiction is proper in this Court pursuant to 28 U.S.C. ¶ 1367 in that the claims set forth herein are so related to the claims in Plaintiffs' Complaints that they form part of the same case or controversy.

7. Venue is proper in this Court pursuant to 28 U.S.C. ¶ 1391 and Federal Rules of Civil Procedure 13 and 14.

8. Sunoco denies liability on Plaintiffs' claims and for Plaintiffs' alleged damages and incorporates by reference its operative Master Answer and Supplemental Answers to Plaintiffs' Complaints.

9. The Town of Highlands is a municipality operating under the laws of the State of New York, and maintains its principal offices at 254 Main Street, Highland Falls, New York 10928.

10. The Town of Highlands, at all times relevant to this litigation, owned and operated the Town of Highlands Highway Garage, located at 133 Firefighter Memorial Drive, in the Hamlet of Fort Montgomery, Town of Highlands, Orange County, New York (the "Highway Garage").

11. Plaintiffs are specifically seeking damages resulting from the alleged contamination of their groundwater by MTBE and/or TBA.

12. Plaintiffs' wells and the associated aquifer and/or groundwater are located near the Highway Garage.

13. On information and belief, MTBE, TBA, and/or gasoline containing MTBE and/or TBA, and/or other contaminants have been released from the underground storage tanks, piping, lines and/or equipment at the Highway Garage, or during the filling of underground storage tanks, piping, lines, equipment and/or vehicles, or during the maintenance of vehicles and/or equipment at the Highway Garage, and began to migrate underground, eventually reaching Plaintiffs' groundwater or water systems.

14. If Sunoco is found to be liable to Plaintiffs for the allegations made against it, then Sunoco is entitled to indemnification and/or contribution from the Town of Highlands.

Third-Party Claims Against the Town of Highlands

(Indemnity and Contribution)

15. At all relevant times the Town of Highlands had a duty to:

- a. safely and properly use, handle, or store petroleum products, including gasoline containing MTBE and/or TBA;
- b. safely and properly receive or accept delivery or transfer of petroleum products, including gasoline containing MTBE and/or TBA;
- c. install, remove, replace, excavate, inspect, repair, monitor, test, examine or maintain its underground storage tanks, piping, lines and equipment, so as not to allow a release of product from the underground storage tanks, piping, lines and equipment;
- d. timely, safely and properly clean up, remediate, mitigate, eliminate or control releases, spills or leaks of petroleum products, including gasoline containing MTBE and/or TBA;
- e. institute measures to prevent spills of petroleum products, including gasoline containing MTBE and/or TBA;
- f. safely and properly dispense or pump petroleum products, including gasoline containing MTBE and/or TBA into automobiles and other vehicles and equipment; or
- g. adhere to applicable laws, rules, regulations, guidelines or procedures relating to the use, handling or storage of petroleum products, including gasoline containing MTBE and/or TBA.

16. The Town of Highlands breached one or more of these duties by allowing: releases, spills or overflows of petroleum products, including gasoline containing MTBE and/or TBA from the Highway Garage; the soil and/or groundwater at the Highway Garage to become contaminated by petroleum products, including gasoline containing MTBE and/or TBA; and/or allowing petroleum products, including gasoline containing MTBE and/or TBA, to reach Plaintiffs' groundwater and/or water systems.

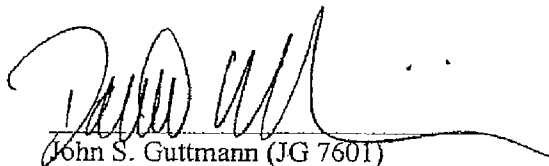
17. As a direct and proximate result of the Town of Highlands' actions and inaction, the Town of Highlands either caused or contributed to the alleged harm or threatened harm to Plaintiffs' groundwater or water systems and any and all resulting damages to Plaintiffs as alleged in their Complaints, and thus, the Town of Highlands is liable to Sunoco for all or part of Plaintiffs' claims against Sunoco.

18. To the extent that Sunoco is found liable to Plaintiffs in any way, Sunoco is entitled to indemnity or contribution from the Town of Highlands pursuant to New York law.

19. In the event that the Town of Highlands is found not to have been wholly responsible for any Plaintiff's loss or damage, the relative culpability of the Town of Highlands must be compared by the trier of fact in this matter in its assessment of the relative fault for Plaintiffs' injuries, if any.

WHEREFORE, Sunoco respectfully requests that to the extent it is held liable for damages to Plaintiffs, that the Town of Highlands be held liable for all or part of any damages that may otherwise be ordered against Sunoco and in favor of Plaintiffs.

Dated: February 16, 2006



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